

REMARKS

The Office Action dated December 5, 2007 has been received and carefully considered. In this response, claims 26, 54, 63, 64, 69, and 73 have been amended. No new matter has been added. Entry of the amendments to claims 26, 54, 63, 64, 69, and 73. Reconsideration of the current rejections in the present application is also respectfully requested based on the following remarks.

I. THE ENABLEMENT REJECTION OF CLAIMS 26-46, 48-54, and 56-73

On page 2 of the Office Action, claims 26-46, 48-54, and 56-73 were rejected under 35 U.S.C. § 112, first paragraph, as allegedly containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. To the extent that the rejection is not mooted by the above claim amendments, this rejection is hereby respectfully traversed.

The Examiner asserts that claim element "backing up an original data store by intercepting all write commands that are directed to the original data store during a time interval" found in claims 26, 54, 63, 64, 69, and 73 "constitutes new matter and fails to comply with the written description requirement. . . ." Office Action, page 2. Applicants

respectfully disagree. However, in order to forward the present application toward allowance, Applicants have amended claims 26, 54, 63, 64, 69, and 73 to more specifically define the claimed invention. Support for the amendments may be found in several additional sections of the specification. For example, and without limitation, paragraph [0033] states "[a]s described, this can be accomplished by the storage management device continuously saving information stored in a data store before it is overwritten, for example, by the copy-on-write operation described." Also, in paragraph [0060], "the storage management device 38 keeps track of the data in the current store A and the time store A in its memory, for example in the form of indexes and pointers, and reads and writes data to and from the physical store 36."

In addition, in response to Applicants' arguments, the Examiner states that "it is noted that having 'the storage management device act[s] as if it was the physical store 36' fails to specifically disclose that all the write commands directed to the original data store are intercepted." Office Action, page 3. Logically, however, this statement is unfounded. If the storage management device acts as if it was the physical store, as detailed in the specification, it is intuitive that the storage management device would have access

to all of the write commands for the original data store, and would act in a similar way to the physical store.

At this point Applicants would like to emphasize to the Examiner that, as stated in MPEP § 2163.02, the fundamental factual inquiry is whether a claim defines an invention that is clearly conveyed to those skilled in the art at the time the application was filed. The subject matter of the claim need not be described literally (i.e., using the same terms or in *haec verba*) in order for the disclosure to satisfy the description requirement.

In view of the foregoing, it is respectfully requested that the aforementioned enablement rejection of claims 26-46, 48-54, and 56-73 be withdrawn.

II. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

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To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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